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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 983 Session of  
2023

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INTRODUCED BY MASTRIANO, ROTHMAN, LANGERHOLC AND HUTCHINSON,  
NOVEMBER 9, 2023

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REFERRED TO JUDICIARY, NOVEMBER 9, 2023

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AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 42 (Judiciary and  
2 Judicial Procedure) of the Pennsylvania Consolidated  
3 Statutes, in general provisions, further providing for  
4 classes of offenses; in authorized disposition of offenders,  
5 providing for sentence for trafficking in minors to sexual  
6 servitude; in human trafficking, further providing for  
7 trafficking in individuals; and, in sentencing authority,  
8 providing for sentencing procedure for trafficking in minors  
9 to sexual servitude.

10 The General Assembly of the Commonwealth of Pennsylvania  
11 hereby enacts as follows:

12 Section 1. Section 106(a) and (b) of Title 18 of the  
13 Pennsylvania Consolidated Statutes are amended by adding  
14 paragraphs to read:

15 § 106. Classes of offenses.

16 (a) General rule.--An offense defined by this title for  
17 which a sentence of death or of imprisonment is authorized  
18 constitutes a crime. The classes of crime are:

19 \* \* \*

20 (1.1) Trafficking of minor to sexual servitude.

21 \* \* \*

1 (b) Classification of crimes.--

2 \* \* \*

3 (1.1) A crime is a trafficking of a minor to sexual  
4 servitude if so designated in this title or is a person  
5 convicted of trafficking in individuals in accordance with  
6 the provisions of sections 1102.2 (relating to sentence for  
7 trafficking in minors to sexual servitude) and 3011(c)  
8 (relating to trafficking in individuals).

9 \* \* \*

10 Section 2. Title 18 is amended by adding a section to read:  
11 § 1102.2. Sentence for trafficking in minors to sexual  
12 servitude.

13 Notwithstanding any other provision of law, a person who has  
14 been convicted of trafficking in minors to sexual servitude  
15 under section 3011(c) (relating to trafficking in individuals)  
16 shall be sentenced to death or a term of life imprisonment in  
17 accordance with 42 Pa.C.S. § 9711.2 (relating to sentencing  
18 procedure for trafficking in minors to sexual servitude).

19 Section 3. Section 3011(b) introductory paragraph of Title  
20 18 is amended and the section is amended by adding a subsection  
21 to read:

22 § 3011. Trafficking in individuals.

23 \* \* \*

24 (b) Trafficking in minors.--Notwithstanding section 1103  
25 (relating to sentence of imprisonment for felony), for offenses  
26 occurring prior to January 1, 2025, a person shall be sentenced  
27 to a term of imprisonment fixed by the court at not more than 40  
28 years if:

29 \* \* \*

30 (c) Sentencing after January 1, 2025.--Notwithstanding any

1 other provision of law, for all offenses occurring on or after  
2 January 1, 2025, a person shall be sentenced in accordance with  
3 42 Pa.C.S. § 9711.2 (relating to sentencing procedure for  
4 trafficking in minors to sexual servitude) if:

5 (1) the person violates subsection (a)(1) or (2); and

6 (2) the violation:

7 (i) results in a minor being subjected to or  
8 evidence exists that shows the minor was intended to be  
9 subjected to sexual servitude. The evidence under this  
10 subparagraph may not solely be from the testimony of the  
11 victim minor or minors, and the corroborating testimony  
12 may not be solely based on the hearsay statements of a  
13 minor; and

14 (ii) is part of a course of conduct subjecting  
15 minors to sexual servitude.

16 Section 4. Title 42 is amended by adding a section to read:  
17 § 9711.2. Sentencing procedure for trafficking in minors to  
18 sexual servitude.

19 (a) Procedure in jury trials.--

20 (1) After a verdict of trafficking in individuals is  
21 recorded and before the jury is discharged, the court shall  
22 conduct a separate sentencing hearing in which the jury shall  
23 determine whether the defendant shall be sentenced to death  
24 or life imprisonment.

25 (2) In the sentencing hearing, evidence concerning the  
26 victim and the impact that the trafficking of the victim has  
27 had on the victim and the family of the victim is admissible.  
28 Additionally, evidence may be presented as to any other  
29 matter that the court deems relevant and admissible on the  
30 question of the sentence to be imposed. Evidence shall

1 include matters relating to any of the aggravating or  
2 mitigating circumstances specified in subsections (d) and  
3 (e), and information concerning the victim and the impact  
4 that the trafficking of the victim has had on the victim and  
5 the family of the victim. Evidence of aggravating  
6 circumstances shall be limited to those circumstances  
7 specified in subsection (d).

8 (3) After the presentation of evidence, the court shall  
9 permit counsel to present argument for or against the  
10 sentence of death. The court shall then instruct the jury in  
11 accordance with subsection (c).

12 (4) Failure of the jury to unanimously agree upon a  
13 sentence shall not impeach or in any way affect the guilty  
14 verdict previously recorded.

15 (b) Procedure in nonjury trials and guilty pleas.--If the  
16 defendant has waived a jury trial or pleaded guilty, the  
17 sentencing proceeding shall be conducted before a jury impaneled  
18 for that purpose unless waived by the defendant with the consent  
19 of the Commonwealth, in which case the trial judge shall hear  
20 the evidence and determine the penalty in the same manner as  
21 would a jury as provided in subsection (a).

22 (c) Instructions to jury.--

23 (1) Before the jury retires to consider the sentencing  
24 verdict, the court shall instruct the jury on the following  
25 matters:

26 (i) The aggravating circumstances specified in  
27 subsection (d) as to which there is some evidence.

28 (ii) The mitigating circumstances specified in  
29 subsection (e) as to which there is some evidence.

30 (iii) Aggravating circumstances must be proved by

1 the Commonwealth beyond a reasonable doubt and mitigating  
2 circumstances must be proved by the defendant by a  
3 preponderance of the evidence.

4 (iv) The verdict must be a sentence of death if the  
5 jury unanimously finds at least one aggravating  
6 circumstance specified in subsection (d) and no  
7 mitigating circumstance or if the jury unanimously finds  
8 one or more aggravating circumstances which outweigh any  
9 mitigating circumstances. The verdict must be a sentence  
10 of life imprisonment in all other cases.

11 (v) The court may, in its discretion, discharge the  
12 jury if it is of the opinion that further deliberation  
13 will not result in a unanimous agreement as to the  
14 sentence, in which case the court shall sentence the  
15 defendant to life imprisonment.

16 (2) The court shall instruct the jury that if it finds  
17 at least one aggravating circumstance and at least one  
18 mitigating circumstance, it shall consider, in weighing the  
19 aggravating and mitigating circumstances, any evidence  
20 presented about the victim and about the impact of the  
21 trafficking of the victim on the victim's family. The court  
22 shall also instruct the jury on any other matter that may be  
23 just and proper under the circumstances.

24 (d) Aggravating circumstances.--Aggravating circumstances  
25 shall be limited to the following:

26 (1) The defendant paid or was paid by another person or  
27 had contracted to pay or be paid by another person or had  
28 conspired to pay or be paid by another person for the  
29 trafficking of the victim.

30 (2) In the commission of the offense the defendant

1 knowingly created a grave risk of death or serious bodily  
2 injury to another person in addition to the victim of the  
3 offense.

4 (3) The defendant has a significant history of felony  
5 convictions involving sexual offenses, the use or threat of  
6 violence to a person or trafficking of individuals.

7 (4) The defendant has been convicted of another Federal  
8 or State offense, committed either before or at the time of  
9 the offense at issue, for which a sentence of life  
10 imprisonment or death was imposable or the defendant was  
11 undergoing a sentence of life imprisonment for any reason at  
12 the time of the commission of the offense.

13 (5) The defendant has been convicted of any offense  
14 under 18 Pa.C.S. Ch. 30 (relating to human trafficking), or a  
15 substantially equivalent crime in any other jurisdiction,  
16 committed either before or at the time of the offense at  
17 issue.

18 (6) The victim was a child under 12 years of age.

19 (e) Mitigating circumstances.--Mitigating circumstances  
20 shall include the following:

21 (1) The defendant has no significant history of prior  
22 criminal convictions.

23 (2) The defendant was under the influence of extreme  
24 mental or emotional disturbance.

25 (3) The capacity of the defendant to appreciate the  
26 criminality of his conduct or to conform his conduct to the  
27 requirements of law was substantially impaired.

28 (4) The age of the defendant at the time of the crime.

29 (5) The defendant acted under extreme duress, although  
30 not such duress as to constitute a defense to prosecution

1 under 18 Pa.C.S. § 309 (relating to duress), or acted under  
2 the substantial domination of another person.

3 (6) The defendant's participation in the act was  
4 relatively minor.

5 (7) Any other evidence of mitigation concerning the  
6 character and record of the defendant and the circumstances  
7 of the offense.

8 (f) Sentencing verdict by the jury.--

9 (1) After hearing all of the evidence and receiving the  
10 instructions from the court, the jury shall deliberate and  
11 render a sentencing verdict. In rendering the verdict, if the  
12 sentence is death, the jury shall specify in such form as  
13 designated by the court the findings upon which the sentence  
14 is based.

15 (2) Based upon these findings, the jury shall specify in  
16 writing whether the sentence is death or life imprisonment.

17 (g) Recording sentencing verdict.--Whenever the jury shall  
18 agree upon a sentencing verdict, it shall be received and  
19 recorded by the court. The court shall thereafter impose upon  
20 the defendant the sentence fixed by the jury.

21 (h) Review of death sentence.--

22 (1) A sentence of death shall be subject to automatic  
23 review by the Supreme Court of Pennsylvania pursuant to its  
24 rules.

25 (2) In addition to its authority to correct errors at  
26 trial, the Supreme Court shall either affirm the sentence of  
27 death or vacate the sentence of death and remand for further  
28 proceedings as provided in paragraph (4).

29 (3) The Supreme Court shall affirm the sentence of death  
30 unless it determines that:

1           (i) the sentence of death was the product of  
2           passion, prejudice or any other arbitrary factor; or

3           (ii) the evidence fails to support the finding of at  
4           least one aggravating circumstance specified in  
5           subsection (d).

6           (4) If the Supreme Court determines that the death  
7           penalty must be vacated because none of the aggravating  
8           circumstances are supported by sufficient evidence, it shall  
9           remand for the imposition of a life imprisonment sentence. If  
10           the Supreme Court determines that the death penalty must be  
11           vacated for any other reason, it shall remand for a new  
12           sentencing hearing pursuant to subsections (a) through (g).

13           (i) Record of death sentence to Governor.--If a sentence of  
14           death is upheld by the Supreme Court, the prothonotary of the  
15           Supreme Court shall transmit to the Governor a full and complete  
16           record of the trial, sentencing hearing, imposition of sentence,  
17           opinion and order by the Supreme Court within 30 days of one of  
18           the following, whichever occurs first:

19           (1) the expiration of the time period for filing a  
20           petition for writ of certiorari or extension thereof where  
21           neither has been filed;

22           (2) the denial of a petition for writ of certiorari; or

23           (3) the disposition of the appeal by the United States  
24           Supreme Court, if that court grants the petition for writ of  
25           certiorari.

26           Notice of this transmission shall contemporaneously be provided  
27           to the Secretary of Corrections.

28           Section 5. This act shall take effect in 60 days.